

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In Re RAPID SETTLEMENTS,
LTD.'S APPLICATION FOR
APPROVAL OF TRANSFER
OF STRUCTURED SETTLEMENT
PAYMENT RIGHTS,

NO. CV-12-5115-LRS

ORDER GRANTING MOTION
FOR REMAND TO STATE
COURT

FinServ Corporation ("FinServ") has attempted to remove Benton County Superior Court Case No. 04-2-02767 (the "State Court Action") to this court. Although a motion to join FinServ as a party to the State Court Action was pending at the time of the attempted removal, insofar as known, no order of joinder was ever entered in the Benton County proceeding and no complaint against FinServ has been filed or served. Of significance, the State Court Action was originally initiated in 2004 although later ancillary proceedings have occurred in the State Court Action more recently. Additionally, serious questions have been raised concerning whether the amount allegedly in controversy equals or exceeds \$75,000.00.

Based on the record, this court finds that Symetra's Motion For Remand To State Court (ECF No. 4) should be granted based on the following: FinServ's non-party status in the underlying litigation; the passage of more than one year since the original litigation which was commenced in approximately 2004 was filed; the non-joinder by other similarly affected entities in FinServ's Notice Of Removal;

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1 the failure of FinServ to show that \$75,000.00 or more is in controversy; and the
2 apparent ancillary nature of the action which is pending in the Superior Court of
3 Benton County, Washington.

4 While Symetra Life Insurance Company together with Symetra Assigned
5 Benefits Services Company asks for attorney fees and costs, this court takes notice
6 that state court proceedings both in Washington and Texas will allow an ample
7 opportunity for the prevailing party to pursue monetary and equitable relief against
8 FinServ (and possibly others). Under these circumstances, attorney fees and costs
9 are DENIED.

10 IT IS ORDERED that:

11 1. Symetra's Motion For Remand, ECF No. 4, is GRANTED, and the
12 above-titled action is remanded to the Superior Court of Benton County,
13 Washington;

14 2. Each party shall bear its own fees and costs in connection with this
15 removal; and

16 3. This file shall be closed.

17 DONE in open court this 6th day of November, 2012.

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19 *s/Lonny R. Suko*

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21 LONNY R. SUKO
22 United States District Judge
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